IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8648 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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C.M.PAREKH

Versus

DIRECTOR OF PROHIBITION & EXCISE

Appearance:

1. Special Civil Application No. 8648 of 1988
NOTICE SERVED for Petitioner No. 1
GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 18/07/2002

ORAL JUDGEMENT

In the instant petition, which is filed under Article 226 of the Constitution, the petitioner has prayed to set aside order dated November 19, 1988, passed by the respondent, by which the petitioner, who was then

appointed as Sub-Inspector in the Department of Prohibition and Excise, is placed under suspension pending criminal prosecution launched against two persons, namely, (i) Vivek Rameshbhai Dongre, and (ii) Sanjay Kantibhai Patel, as they had obtained 20 bottles of beer in collusion with the petitioner, though they were not having any permit or authorisation for the same.

2. Initially, the petitioner was represented by his learned Lawyer Shri Majmudar and on elevation of Shri Majmudar to the Bench, notice was issued calling upon the petitioner either to appear in person or to make arrangement for his appearance through a Lawyer. Though the notice is served on the petitioner, the petitioner has neither appeared in person nor through an advocate.

3. Heard Mr. Manish K.Dagli, learned Assistant Government Pleader. From the reply affidavit, it is evident that the petitioner was posted as Sub-Inspector at Express Hotel, Baroda and it was the duty of the petitioner to tally the signature of the permit-holder or the person authorised by the permit-holder when sale of liquor was to be made. Though two persons, namely, (i) Vivek Rameshbhai Dongre, and (ii) Sanjay Kantibhai Patel, had neither permit nor authorisation from the permit-holder, they had obtained 20 bottles of beer on the basis of permit issued to one Smt. Kashiben, and the petitioner had failed to perform his duty as Sub-Inspector at the time when sale of beer had taken place. Under the circumstances, suspension of the petitioner from service cannot be regarded as illegal. It may be stated that the petitioner has not chosen to file affidavit-in-rejoinder and accepted the averments made in the reply affidavit sworn by Mr. B.B.Negi, who was then Administrative Officer to the Director of Prohibition and Excise Department. On the facts and circumstances as emerging from the pleadings of the parties, I am of the view that no case is made out by the petitioner for granting the relief claimed in the petition and the petition is liable to be dismissed.

For the foregoing reasons, the petition fails and is dismissed. Rule is discharged with no order as to costs. Ad-interim relief granted earlier is hereby vacated.

(J.M.Panchal, J.)

(patel)